IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.233 OF 2007
IN
WRIT PETITION NO.1142 OF 1997

Nashik Workers Union ..Appellant.
Vs.
Mahindra & Mahindra Limited
and others ..Respondents.

....

Mr. Bhavesh Parmar for the Appellant.
Mr. C.U. Singh, Senior Advocate with Ms. Sanika Deshpande i/b Haresh Mehta & Co. for Respondent No.1.

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CORAM: **SWATANTER KUMAR, C.J. &**
DR. D.Y. CHANDRACHUD, J.

23rd October, 2007.

P.C. :

The challenge in the present Appeal is to the order dated 12th September, 2007 passed by the Learned Single Judge in Civil Writ Petition No.1142 of 1997. The Writ Petition was dismissed primarily while relying upon the judgments of the Supreme Court in Cipla Ltd. v. Maharashtra General Kamgar Union & Ors. (AIR 2001 SC 1165), Vividh Kamgar Sabha v. Kalyani Steels Ltd. (2001 1 CLR 532 (SC)) and Sarva Shramik Sangh v. Indian Smelting &

Refining Co. Ltd. (AIR 2004 SC 269) wherein it was held that except the cases where the relationship of employee and employee was indisputable and undisputed, the complaint could not be maintainable. While hearing this matter, the learned counsel appearing for the parties agreed that the Appeal could be disposed of by issuing the following directions :

i) The Appellants in this Appeal would be at liberty to raise their demand within two weeks from today;

ii) The same shall be considered by the appropriate authority and final decision be taken thereupon within eight weeks from the date of receipt of the demand.

We do expect that the competent authority exercising its powers under the provisions of Section 10 of the Industrial Disputes Act, 1947 would expeditiously and in any case within the aforesaid period take its decision in accordance with law of which the parties will be informed.

The amounts deposited by Respondent No.1 herein

would be permitted to be withdrawn by Respondent No.1 in terms of the impugned order, however, with further restriction and condition that in the event the Appellants before this Court ultimately succeed in the Reference Court, the Respondents shall repay the said amount with interest as may be directed by the Industrial Court. However, we make it clear that any observations or findings recorded in the order impugned in the present Appeal would not in any way prejudice the right of the Appellants in the proceedings to be taken in terms of the order. The above terms which are just and equitable are accepted. Order in terms thereof is made. The Appeal is accordingly disposed of.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.